the through rates on the basis of the entire outbound shipment being composed of corn and oats, were refunded to complainant. For a breach of the said contract, complainant brings suit. *Held,* that the agreement was in violation of the Interstate Commerce Act and its amendments and, therefore, void. *Lewis, Leonhardt & Co.* v. *Southern Ry. Co.* (C. C. A. 1914) 217 Fed. 321.

The privilege of stopping goods at certain points along the route to have something done on them, and of milling in transit, is not something that a shipper can demand as of right, but is in the nature of a privilege, which enters into and forms a part of the service covered by the rate, and should, therefore, be specified in the published tariffs, *Unlawful Rates in Trans. Cotton by K. C. M. & B. R. R. Co.,* 8 I. C. C. R. 121; *Shiel & Co.* v. *Ill. Cent. R. R. Co.,* 12 I. C. C. R. 211; *Diamond Mills* v. *B. & M. R. Co.,* 9 I. C. C. R. 315. This privilege is, accordingly, one in respect to which the usual rules against discrimination would be in force. Nor would it be legal to make use of it to evade the rule against departing from the published rates. There can legally be no such departure from the published tariffs, *New Haven R. R. Co.* v. *I. C. C.,* 200 U. S. 361. Any device or plan whereby merchandise is transported for less than the published rates, or any advantage given to, or discrimination made in favor of, any shipper is forbidden by the Interstate Commerce Act and its amendments, *Armour Packing Co.* v. *U. S.,* 209 U. S. 56. If, therefore, the effect of the arrangement in the instant case would be to cause a departure from the published rates on any of the constituent elements of the feed, the arrangement would violate the Act. Since the rate on the basis of the milling-in-transit privilege extended to the entire product, and since the product thus shipped was composed of but 50% of the oats and corn to which such rates were properly applicable, the result would be that the benefit of such rates would extend beyond the oats and corn to the other constituent elements in the product. This resulted in making the real final rate on the inbound shipments of such other elements less than the published rates thereon, since the gain on the corn and oats elements was thus partially distributed over the transportation costs of the other elements. This departure from the published rates, therefore, made the entire agreement void. It is furthermore doubtful whether the circumstances of the case, with the various raw materials coming from various localities, give an adequate basis for the application of the milling-in-transit privilege in view of the limitations placed upon it; see *G. R. & I. R. R. Co.* v. *U. S.,* 212 Fed. 577, and *Nicholas & Cox Lumber Co.* v. *U. S.,* Id. 588. The instant case furnishes another example of the great variety in form of the attempts, with wrongful intent or otherwise, to accomplish ends inconsistent with the Commerce Act. For further illustrations of this in recent times, see *U. S.* v. *Union Stock Yard,* 226 U. S. 286; *C. & A. Ry. Co.* v. *U. S.,* 156 U. S. 558; *C. C. C. & St. L. Ry. Co.* v. *Hirsch,* 204 Fed. 849.

CONSTITUTIONAL LAW—CENSORSHIP OF MOVING PICTURES AS DUE PROCESS OF LAW.—Statutes in Ohio and Kansas provided for the censoring and approval, by a board or officer, of all motion picture films exhibited in the

state, and for a tax for such inspection. The constitutionality of these laws was attacked in the Supreme Court of the United States on the ground that they imposed a burden on interstate commerce; that they delegated legislative power unlawfully, and that they violated state and national constitutional provisions relating to freedom of speech and publication, and to due process of law. In upholding the constitutionality of the act the Court overruled the first two contentions as unreasonable under the facts, and the third objection was brushed away by virtue of the wide scope of the police power of the state. *Mutual Film Corporation* v. *Industrial Commission of Ohio, et al.,* 35 Sup. Ct. 387, and *Mutual Film Corporation* v. *Hodges, Governor, et al.,* 35 Sup. Ct. 393.

Regulations of this nature are not new to the law, but this is the first case that has been decided by the Supreme Court. Regulations affecting moving pictures in general have been quite frequent owing to the rapid growth of the business and its extension into new fields. The authorities are unanimous, wherever the question has arisen, that the regulation of licenses to moving picture theatres, and the censoring of films is within the scope of the police power. *Dreyfus* v. *Montgomery,* 4 Ala. App. 270; *Oldknow* v. *Atlanta,* 9 Ga. App. 594; *McKenzie* v. *McClellan,* 116 N. Y. Supp. 645; *In re Whitten,* 137 N. Y. Supp. 360. The leading case on the subject of censorship is *Block* v. *Chicago,* 239 Ill. 251, in which the chief of police was constituted censor by a city ordinance, and the decision upheld the exercise of such power by a city. The cases on these points are collected in 40 L. R. A. N. S. 193, and American Annotated Cases, 1913E, 1307. All of these cases illustrate the conflict between the police power of the state and the requirements of due process. Undoubtedly in view of the fact that opinions differ as to the merits of moving picture shows as an influence for good or evil, and that whether or not they do exert a good influence they could very easily, and have in the past, sometimes exerted a very pernicious influence upon the morals of society, and in view of their widespread use and the peculiar position that they occupy in influencing the public mind, the regulation is well within the line separating legislative discretion and lack of due process. It cannot be well argued that such a statute is in opposition to the constitutional provisions regarding "freedom of the press." If moving picture shows come within this provision, so do theatres and all public performances. The courts have upheld statutes prohibiting public addresses on public property, (*Commonwealth* v. *Kneeland,* 20 Pick 206), prohibiting profane language (*State* v. *Warren,* 113 N. C. 683; *Harmon* v. *U. S.,* 45 Fed. 414), prohibiting indecent newspapers (*Re Banks,* 56 Kans. 242), prohibiting the publication of lottery information (*Hart* v. *People,* 26 Hun. 396). But see contra, *Ex Parte Niell,* 32 Tex. C. Rep. 275. In view of these authorities it could well be argued that the Supreme Court took the modern progressive view of the subject, but admittedly the application of these constitutional provisions is unsettled to a great extent as yet. See 32 L. R. A. 834.